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10/047,353	01/14/2002	Mehran Arbab	1376P1	5572

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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT

PAPER NUMBER

1755

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/047,353	Applicant(s) ARBAB ET AL.	
	Examiner Elizabeth A. Bolden	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 26 June 2002.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-39 is/are pending in the application:

4a) Of the above claim(s) 36-39 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-35 is/are rejected.

7) ☒ Claim(s) 1 and 23 is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u>	6) <input type="checkbox"/> Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-35, drawn to glass composition, classified in class 501, subclass 71.
- II. Claims 36-39, drawn to glazing panel set, classified in class 296, subclass 84.1+.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the glazing panel set of the combination does not require a specified redox range. The subcombination has separate utility such as glass panes for architectural projects.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Andrew Siminerio on April 3, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 36-39 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Objections

Claims 1 and 23 are objected to because of the following informalities: typographical errors.

In both claims 1 and 23 in line 18, the claim recites "a redox in the range of 0.15" and then in line 19 the claim recites "wherein at a redox range from 0.14". The lower limit for the range in line 19 appears to be a typographical and should be corrected to read 0.15 so that it is within the earlier given range. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 17-19, 21, 23, 31, and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 1, 17-19, 23, and 31 it is unclear whether the thickness modifies all the properties of the claim or only the property preceding the thickness.

Claims 21 and 32 recite the limitation "the float process" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Higby, U.S.

Patent 5,780,372.

Higby discloses a soda lime silica glass having a blue tint. See abstract of Higby. Higby discloses a glass composition comprising iron oxide, titania, cobalt oxide, and other components. See Abstract and column 4, lines 35-44. Higby further disclose optical properties for the glass composition. See Abstract, column 2, lines 50-55, column 3, lines 50-52. The compositional ranges, excitation purity, dominant wavelength, and visible and UV light transmittance ranges disclosed by the reference are sufficiently specific to anticipate the compositional, excitation purity, dominant wavelength, and visible and UV light transmittance limitations in claims 1-35. See MPEP 2131.03. Furthermore, Higby discloses Example 1 which meets the compositional ranges, excitation purity, dominant wavelength, and visible light transmittance ranges of claims

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1-9, 11, 12, 14, 20, 23-25, 27, 28, and 34 and Example 2 which meets the compositional ranges, excitation purity, dominant wavelength, and visible light transmittance ranges of claims 1, 2, 4, 5, 7, 9, 11, 12, 20, 23, 26. See Table I. Higby discloses that the glasses are made by the float process for automotive glazings. See column 4, lines 53-58 and 59-61.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Higby would inherently possess the same total solar infrared transmittance and total solar energy transmittance properties as recited in claims 16, 19, 29, 30, 31, and 34. See MPEP 2112.

Claims 1-17, 19-29, and 31-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Casariego et al., U.S. Patent 5,582,455.

Casariego et al. disclose a soda lime silica glass comprising iron oxide, selenium, cobalt oxide, and other components. See Abstract and column 1, line 60 to column 2, line 6. Casariego et al. further disclose optical properties for the glass composition. See Abstract, column 2, lines 8-12, 23-25, and 35-37. The compositional ranges, excitation purity, dominant wavelength, and visible and total energy transmittance ranges disclosed by the reference are sufficiently specific to anticipate the compositional, excitation purity, dominant wavelength, and visible and total energy transmittance limitations in claims 1-12, 14-16, 19-29, and 31-35. See MPEP 2131.03. Furthermore, Casariego et al. disclose Example 2 which meets the compositional ranges, excitation purity, dominant wavelength, and visible light and total energy transmittances ranges of claims 1, 5, 7, 8, 11-13, 16, 17, 20, 23, 26, 27, 28, 29, and 34 and other examples 5, 8, 10, 12, and 14 which also meet some of the claims. See the Table in column 4. Casariego et al. disclose

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that the glasses are made by the float process. See column 2, lines 18-22. Casariego et al.

disclose that the glasses are used for automotive glazings. See column 4, lines 21-23.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Casariego et al. would inherently possess the same total solar infrared transmittance and total ultraviolet transmittance properties as recited in claims 16, 19, 29, 30, 31, and 34. See MPEP 2112.

Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Boulos et al., U.S. Patent 5,851,940.

Boulos et al. disclose a blue soda lime silica glass comprising iron oxide, titania, cobalt oxide, and other components. See Abstract and column 2, lines 21-29. Boulos et al. further disclose optical properties for the glass composition. See Abstract, column 3, lines 40-42, 45-55, and 60-64. The compositional ranges, excitation purity, dominant wavelength, and visible, infrared, ultraviolet, and total energy transmittance ranges disclosed by the reference are sufficiently specific to anticipate the compositional, excitation purity, dominant wavelength, and visible and total energy transmittance limitations in claims 1-35. See MPEP 2131.03.

Furthermore, Boulos et al. disclose examples 6 and 7 which meet the compositional and property limitations of claims 1, 4, 7, 8, 10, 15, 16, and 20 and examples 10-12 which also meet the compositional and property limitations of claims 1-4, 7-13, and 16-20. See Tables III and IV.

Boulos et al. disclose that the glasses are made by the float process and used for automotive glazings. See column 3, lines 14-16.

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Claims 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Graber et al., U.S. Patent 5,994,249.

Graber et al. disclose a blue soda lime silica glass comprising iron oxide, titania, cobalt oxide, and other components. See Abstract and column 3, lines 12-20. Graber et al. further disclose optical properties for the glass composition. See Abstract and column 3, lines 50-55. The compositional ranges and visible, ultraviolet, and total energy transmittance ranges disclosed by the reference are sufficiently specific to anticipate the compositional, excitation purity, dominant wavelength, and visible and total energy transmittance limitations in claims 1-33. See MPEP 2131.03. Graber et al. disclose that the glasses are made by the float process. See column 1, lines 11-13.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Graber et al. would inherently possess the same dominant wavelength and excitation purity properties as recited in claims 1, 12, 13, 17, 18, 23, 24, and 30. See MPEP 2112.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 703-305-0124. The examiner can normally be reached on 8:30am to 6:00 pm with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EAB
April 5, 2003


DAVID SAMPLE
PRIMARY EXAMINER